

Docket No. 843A

Paper No. \_\_\_\_\_

DECLARATION FOR PATENT APPLICATION

Applicant: James H. Trato  
 Serial No.: Unknown  
 Filing Date: Herewith  
 For: CEMENTITIOUS COMPOSITIONS AND CEMENTITIOUS SLURRIES FOR  
 PERMANENTLY PLUGGING ABANDONED WELLS AND PROCESSES AND METHODS  
 THEREFOR

As a below named inventor, I hereby declare that: My residence, post office box address and citizenship are stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

CEMENTITIOUS COMPOSITIONS AND CEMENTITIOUS SLURRIES FOR PERMANENTLY  
 PLUGGING ABANDONED WELLS AND PROCESSES AND METHODS THEREFOR  
 of which is attached hereto unless the following box is checked:

☐ was filed on \_\_\_\_\_ as United States Application Number or PCT International Application  
 Number \_\_\_\_\_ and was amended on \_\_\_\_\_ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56.

I hereby claim foreign priority benefits under 35 U.S.C. § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate, or § 365(a) of any PCT international application which designated at least one country other than the United States, listed below and have also identified below, by checking the box any foreign application for patent or inventor's certificate, or PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

Priority Not Claimed

(Number)	(Country)	(Day/Month/Year Filed)	<input type="checkbox"/>
(Number)	(Country)	(Day/Month/Year Filed)	<input type="checkbox"/>

I hereby claim the benefit under 35 U.S.C. § 119(e) of any United States provisional application(s) listed below.

(Application Number)	(Filing Date)
(Application Number)	(Filing Date)

I hereby claim the benefit under 35 U.S.C. § 120 of any United States application(s), or § 365(c) of any PCT international application designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT international application in the manner provided by the first paragraph of 35 U.S.C. § 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

(Application Number)	(Filing Date)	(Status -- patented, pending, abandoned)
(Application Number)	(Filing Date)	(Status -- patented, pending, abandoned)

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

F. EUGENE LOGAN, Reg. No. 27,352

Address all telephone calls to F. EUGENE LOGAN, Attorney-At-Law, telephone no. 714-730-5553

Address all correspondence to F. EUGENE LOGAN, Attorney-At-Law, 275 Centennial Way, Suite 205, Tustin, CA 92780

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of First Inventor: James H. Trato  
 Citizenship: U.S.A.

Residence Address: P.O. BOX 7481, Laguna Niguel, CA 92607  
 Post Office Address: P.O. BOX 7481, Laguna Niguel, CA 92607

Signature: \_\_\_\_\_

James H. Trato

Date: October 26, 2001

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2. CERTIFICATE OF "EXPRESS MAILING" LABEL NO. EM173672739US

Docket No. 843A

Paper No. \_\_\_\_\_

**VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS - INDEPENDENT INVENTOR**

Applicant: James H. Trato  
Serial No.: Unknown  
Filing Date: Herewith  
For: CEMENTITIOUS COMPOSITIONS AND CEMENTITIOUS SLURRIES FOR  
PERMANENTLY PLUGGING ABANDONED WELLS AND PROCESSES AND METHODS  
THEREFOR

As a below named inventor, I hereby declare that I qualify as an independent inventor as defined in 37 CFR 1.9(c) for purposes of paying reduced fees to the Patent and Trademark Office described in:

- ☒ the specification filed herewith with title as listed above.  
☐ the application identified above.  
☐ the patent identified above.

I have not assigned, granted, conveyed or licensed and am under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who would not qualify as an independent inventor under 37 CFR 1.9(c) if that person had made the invention, or to any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

Each person, concern or organization to which I have assigned, granted, conveyed, or licensed or am under an obligation under contract or law to assign, grant, convey, or license any rights in the invention is listed below:

- ☒ No such person, concern, or organization exists.  
☐ Each such person, concern or organization is listed below.

Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

Signature of Applicant:

*James H. Trato*  
James H. Trato

Date:

*October 26, 2001*

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VERIFIED STATEMENT CLAIMING SMALL ENTITY STATUS - INDEPENDENT INVENTOR

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## U.S. PATENT OFFICE DEFINITION OF SMALL ENTITY OR BUSINESS

## RECEIPT AND HANDLING OF MAIL AND PAPERS

509.02

§ 121.3-18 Definition of small business for paying reduced patent fees under Title 35, U.S. Code.

(a) Pursuant to Pub. L. 97-247, a small business concern for purposes of paying reduced fees under 35 U.S. Code 41 (a) and (b) to the Patent and Trademark Office means any business concern (1) whose number of employees, including those of its affiliates, does not exceed 500 persons and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section. For the purpose of this section concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

(b) If the Patent and Trademark Office determines that a concern is not eligible as a small business concern within this section, the concern shall have a right to appeal that determination to the Small Business Administration. The Patent and Trademark Office shall transmit its written decision and the pertinent size determination file to the SBA in the event of such adverse determination and size appeal. Such appeals by concerns should be submitted to the SBA at 1441 L Street, NW., Washington, D.C. 20416 (Attention: SBA Office of General Counsel). The appeal should state the basis upon which it is claimed that the Patent and Trademark Office initial size determination on the concern was in error, and the facts and arguments supporting the concern's claimed status as a small business concern under this section.

(c) A nonprofit organization as used in this chapter means (1) a university or other institution of higher education located in any country; (2) an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)); (3) any nonprofit scientific or educational organization qualified under a nonprofit organization statute of a state of this country (33 U.S.C. 201(b)); or (4) any nonprofit organization located in a foreign country which would qualify as a nonprofit organization under paragraphs (c) (2) or (3) of this section if it were located in this country.

(f) A small entity as used in this chapter means an independent inventor, a small business concern or a nonprofit organization.

INDEPENDENT INVENTOR

Section 1.9(c) of 37 CFR defines an independent inventor as any inventor who (1) has not assigned, granted, conveyed, or licensed, and (2) is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not likewise be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization. Once an individual sole inventor, or one of several joint inventors, has assigned, granted, conveyed, or licensed, or comes under an obligation to assign, grant, convey, or license, any rights to the invention to anyone who could not likewise obtain status as a small entity, the inventor(s) will no longer be entitled to pay fees in the amounts established for an independent inventor (§ 1.9(c)).

Rights in the invention include the right to make, use or sell the invention or the right to exclude others from making, using or selling the invention. Therefore, for example, status as a small entity is lost by an

inventor who has transferred or has an obligation to transfer a shop right to an employer who could not qualify as a small entity.

Section 1.9(c) permits an individual inventor to make an assignment, grant, conveyance, or license of partial rights in the invention to another individual or individuals who could qualify as an independent inventor or inventors if they had made the invention. In addition, § 1.9(c) permits an individual inventor to make an assignment, grant, conveyance, or license of partial rights in the invention to a small business concern or nonprofit organization. Under the circumstances described in the previous two sentences the individual inventor could still qualify as an independent inventor. However, if the independent inventor assigned, granted, conveyed, or licensed, or came under an obligation to assign, grant, convey, or license, any rights to the invention to any individual or organization which could not qualify as a small entity (§ 1.9(f)), then the inventor would no longer qualify as an independent inventor.

SMALL BUSINESS CONCERN

Section 1.9(d) of 37 CFR provides that, in order to be a small business, the number of employees of the concern, including those of its affiliates, may not exceed 500 persons. Concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. For discussion and example of what constitutes "control" see the regulations of the Small Business Administration (13 CFR 121.3-2). The number of employees of a business concern is determined by counting the number of persons of the concern and its affiliates employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern and of its affiliates. The number of employees is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year.

The definition also requires a small business for this purpose to be one "which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not be classified as an independent inventor if that person had made the invention, or to any concern which would not qualify as a small business concern or a nonprofit organization under this section."

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

James H. Trato  
 October 26, 2001